SUPREME COURT OF THE UNITED STATES.

No. ~~193~~ 144. 37. 36. 35. 32. 31.

JAMES H. WILSON, PLAINTIFF IN ERROR,

vs.

MARTIN R. P. MATHIS, SHERIFF.

IN ERROR TO SUPREME COURT OF STATE OF ARKANSAS.

GEO. S. GIDEON, printer, 511 Ninth street, Washington, D. C.

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GIDEON, Print.

STATE OF ARKANSAS,
*In the Supreme Court.*

Be it remembered, that at a Supreme Court of the State of Arkansas, begun and held at the court-house, in the city of Little Rock, on the 2d day, being the first Monday in January, A. D. 1860, were the following proceedings before the Hon. Elbert H. English, chief justice, and the Hon. Freeman W. Compton, judge, on the 4th day of February, in said term, in the case of—

JAMES H. WILSON, Appellant,
vs.
M. R. P. MATHIS, Appellee.
} No. 263.—Appeal from Chicot circuit court in chancery.

Be it remembered, that heretofore, to wit, on the 22d day of December, A. D. 1858, the said appellant filed in the office of the clerk of said supreme court the transcript of the record in this cause, which is in the following words, to wit:

Pleas before the Honorable John C. Murray, judge of the 2d judicial circuit of the State of Arkansas, in chancery sitting, at a court begun and holden at the court-house, in the town of Lake Village, in Chicot county, and State of Arkansas, on the first Monday after the fourth Monday of September, A. D. 1858, and on the 4th day of said term, and on the 7th day of October, A. D. 1858, among others the following proceedings were had, to wit:

JAMES H. WILSON, Complainant,
vs.
MARTIN R. P. MATHIS, Defendant.
} Bill for Injunction.

Be it remembered, that heretofore, to wit, on the 27th day of March, A. D. 1858, the said complainant, by his solicitor, filed in the office of the clerk of the said court his bill for injunction in said cause, which is in the words and figures following, to wit:

*Bill.*

ARKANSAS, *sct.*

In the Circuit Court of the County of Chicot in Chancery, of the March Term thereof, A. D. 1858.

To the Honorable Theoderick F. Sorrells, Judge of the Chicot Circuit Court, in Chancery sitting:

Your orator, James H. Wilson, of , and State of Tennessee, humbly complaining, showeth unto your honor, that he is the legal owner of the following described tracts or parcels of

land lying and being situate in the said county of Chicot, and State of Arkansas, to wit:

Section five; the west half of the west half of section four; the east half and the east half of the west half of section eight; the west half of section nine; section seventeen; east half of section twenty; section twenty-one; the west half of section twenty-eight; the east half of section twenty-nine; the east half of the west half, and the west half of the southeast quarter of section thirteen, in township sixteen south, of range three west.

Also the west half of section six; the west half of section seven; section eighteen; section nineteen; the northeast quarter and the east half of the northwest quarter of section thirty, in township nineteen south, of range three west.

Also the east half of section one; the east half of section twelve; section thirteen; the east half of section fourteen; the east half of section twenty-three; section twenty-four; the northwest of section twenty-five; the north half of section twenty-six, and the northeast quarter of section twenty-seven, in township nineteen south, of range four west.

That said lands have been purchased by your orator from the State of Arkansas with land scrip.

That the said lands constitute a part of the swamp and overflowed lands donated to the State of Arkansas by the United States by an act of Congress approved 28th September, A. D. 1850.

That said swamp and overflowed lands were granted to the State of Arkansas for the purpose of enabling her to build and construct such levees and drains as might be necessary to reclaim said lands, and by virtue an act of the general assembly, entitled "An act to provide for the reclaiming of the swamp and overflowed lands donated to this State by the United States," approved January 6th, A. D. 1851, did proceed to fix the price of said swamp and overflowed lands so donated as aforesaid, and did appoint commissioners, whose duty it was to fix the price, determine the locality, extent and dimensions of the necessary levees and drains, in order to reclaim said lands, to let out contracts to construct said levees and drains, &c.

And your orator further showeth unto your honor, that the said grant of swamp and overflowed lands was made by the general government to the state of Arkansas, in order to enable said State to reclaim and render fit for cultivation the swamp lands within her limits. That the act of Congress aforesaid, donating said swamp and overflowed lands, authorized the State of Arkansas to sell said lands, provided, however, that the State of Arkansas should apply the proceeds accruing from the sales thereof to reclaim said lands; and that the State of Arkansas, by said act of the general assembly, did declare that the payment for the making said levees and drains should be made in the lands reclaimed, or in the proceeds of the sales thereof, at a price to be previously fixed upon said

*said* lands by said commissioners, and that said commissioners should have power to issue land scrip, which any contractor at his option might demand and receive in lieu of land, in payment for his work, and which scrip should be transferable by assignment, and might be located upon any of the unselected portion of said swamp and overflowed lands.

Your orator further represents to your honor, that by virtue of said authority, vested as aforesaid in said commissioners, they, the said commissioners, did issue land scrip, a part of which your orator purchased, as he is informed and believes, and therewith entered said lands; the said scrip having been issued, as your orator is informed and believes, previous to the 11th day of January, 1855, for work and labor done in the matter of reclaiming said swamp and overflowed lands, and the said lands entered with said scrip as aforesaid being part of the lands donated to the State of Arkansas by the general government as aforesaid.

Your orator further states to your honor that, by the 14th section of said act of the general assembly of the State of Arkansas, (to which act your honor is hereby referred for fuller information,) it was enacted, "That to encourage, by all just means, the progress and completion of the reclamation, by offering inducements to purchasers and contractors to take up said lands, that the swamp and overflowed land shall be exempt from taxation for the term of ten years, or until said lands are reclaimed;" that, on the faith of this solemn pledge by the State, he, your orator, purchased said lands, believing that in doing so he could not be prejudiced, but might be benefited materially; and that the integrity of a sovereign State was a sufficient guaranty that his said lands should not be taxed for the term of ten years.

Your orator further represents to your honor that, by an act of the general assembly of the State of Arkansas, entitled "An act amendatory of existing laws regulating the landed interest of this State," approved January 12th, '53, it was, amongst other things, enacted "That it shall be the duty of the swamp land commissioners, on the first Monday in January, in each year, to make out and transmit to the auditor of public accounts an accurate list of all overflowed lands reclaimed, in order that the same may be taxed according to the provisions of the fourteenth section of the act approved sixth of January, 1851. That "it shall be the duty of the auditor to transmit to the sheriff of each county where any of said reclaimed lands lie, a copy of the list of reclaimed lands furnished him, as above provided," by the swamp land commissioners; such sheriff shall assess such lands, as in other cases; and it is submitted that if said act, or the said provisions of said act, was intended to reach any of said lands and subject the same to taxation for ten years from the date of their entry, or the date of the land scrip with which they may have been entered, it was void and of no ef-

fect, because it impaired the solemn obligation of the contract entered into by the State with purchasers, and contained in the 14th section of the act of January 6th, 1851, and therefore repugnant to and in violation of the constitution of the United States.

Your orator further humbly showeth to your honor, that it was upon the faith of the said act of the general assembly of the State of Arkansas, approved January 6th, 1851, exempting said swamp lands from taxation for ten years, that he entered said lands; and that he hoped, when he so entered said lands, that the State of Arkansas would have acted in good faith, and not deliberately violate a solemn pledge given to those who should assist in reclaiming her swamp and overflowed lands; but now, so it is, may it please your honor, the State of Arkansas is attempting to subject said lands to taxation by virtue of the aforesaid act of January 12th, 1853, and an act approved 11th January, 1855, by which said last mentioned act, it is enacted that the 14th section of the said act of 1851, before referred to, shall be, and is repealed; that lands confirmed or to be confirmed to said State as swamp and overflowed lands, and sold or to be sold, shall be subject to taxation like other lands, and shall be assessed by the sheriffs of the several counties for each year next succeeding the date of sale or location, like other taxable property under existing laws, and to proceed to collect the taxes thereon, and that all laws conflicting with said act, to wit, act of January 12th, 1855, are repealed.

Humbly complaining, further your orator showeth to your honor that Martin R. P. Mathis, whom he prays may be made a defendant to this bill, is at this time sheriff and collector of taxes for the said county of Chicot, duly commissioned; that said Mathis, in his capacity of sheriff and collector of said county of Chicot, and in pursuance of the provisions of said act of January 11th, 1855, and said act of 1857, has assessed said lands for taxation, to wit, for levee tax, for the year A. D. 1857; and is now proceeding to collect the taxes thereon, by advertisement and sale, which said taxes amount to the sum of six or eight hundred dollars, and is proceeding to assess them for the purposes of taxation for the present year.

Your orator further represents to your honor that by said act of 7th January, 1857, it is enacted that in assessing lands for levee tax for Chicot county none shall be assessed at less than ten dollars per acre; that by another act of the general assembly it is provided and enacted that in assessing lands for State, county and road taxes, none shall be assessed at less than three dollars per acre; that these enactments are made in the very face of that provision of our constitution which requires all property subject to taxation to be taxed according to its value, and that, being so contrary to the letter and meaning of the constitution, he submits that they are void and of no binding force.

Your orator further represents to your honor that, in pursuance of said act of the general assembly, of January, 1857, a board of levee inspectors, of which Ch's W. Campbell is president, has been organized in said county of Chicot, and that if said board of inspectors are a corporation proper to be made a party to this suit, which your orator submits is not the case, he prays that said board may be made a party defendant in this cause.

Complainant further states to your honor that said lands are situated in the western part of said county of Chicot; that levees on the Mississippi river can be of little or no advantage or protection to them; and that, therefore, it is extremely inequitable and unjust to tax said lands for the purpose of constructing levees which can be no protection to them; and that said lands are not properly alluvial lands, or at least a large proportion of them, as your orator is informed and believes.

Complainant further states to your honor that such acts of special legislation as the said act of the general assembly of January, 1857, are inexpedient and dangerous, and should be discountenanced by the courts of the State, as furnishing a precedent which, if pursued by the legislature, must be prejudicial to the best interest of the community.

Your orator further submits to your honor that said last mentioned act, to wit, the act of January, 1857, is manifestly unconstitutional and unjust, particularly in this, to wit, that it taxes lands and real estate in general for purposes never contemplated by the constitution; that said law fixes a minimum valuation on lands for the purposes of raising a levee tax which is unjust, in assessing lands at $10 per acre, when the State is selling the same lands for $\frac{50}{100}$ and $\frac{75}{100}$ per acre, and which conflicts with the constitution, which requires land to be taxed according to its true value; and that said law assumes the power to fix the value of lands for the purposes of taxation, whereas the legislature, by the constitution, has but the power to direct how that value shall be ascertained. (See next page.)

It is further shown to your honor, that the said act of Congress donating said lands to the State of Arkansas provided that said lands, and the proceeds arising from the sale of said lands, should be appropriated for the purpose of constructing levees and drains, in order to reclaim said lands; that the said various acts of the general assembly do not provide for the construction of drains; that there have been few, if any, drains made in pursuance of said terms of said grant, and that the said acts of the general assembly are in fact a practical repudiation of a drainage system, which, it is submitted to your honor, is the only system that can be of much service to those who live back from the Miss. river, and who suffer as much or more from the overflow by rain, as they do by inundations of the Mississippi.

Wherefore, inasmuch as the said act of the general assembly, which repeals the 14th section of said act of 6th January, 1851, and the act of 7th January, 1857, providing for a special levee tax, are unconstitutional, particularly so far as said acts attempt to tax said swamp and overflowed lands, inasmuch as it is a gross violation of a solemn contract of the State of Arkansas with your orator, valid and *constitunal* when made, and directly and boldly impairs the obligation of said contract, and therefore in violation of the Constitution of the United States, and inasmuch as your orator is directly affected by it, and cannot have adequate remedy at law, nor avoid a multiplicity of suits, nor prevent the commission of a great wrong in the violation of a valid contract, except in a court of equity, where matters of this nature are peculiarly cognizable.

To the end, therefore, that the said Martin R. P. Mathis, as and in his capacity of sheriff and collector of taxes, in and for said county of Chicot, may be made a defendant to this suit, and that he may make full, true, and perfect answer to all and singular the allegations, matters, and things herein contained, as fully and particularly as though the same were again here repeated in the form of special interrogatories, and that by a decree of your honor, he and his successors in office may be enjoined and restrained from listing said lands for taxation or collecting taxes thereon until ten years from the date of their entry, and that said act of general assembly of the 11th January, 1855, may be declared a law, impairing the obligation of a contract, and therefore null and void, and that said provision of the statute providing that no *laws* shall be assessed for levee tax in Chicot county at a less value than ten dollars per acre, be declared void, as contrary to the constitution of the State of Arkansas, and that said law creating a levee tax for Chicot county be declared wholly unconstitutional.

May it please your honor to grant such other and further relief in the premises as to your honor shall seem meet.

May it please your honor further to grant unto your orator, not only your honor's most gracious writ of injunction issuing out of and under the seal of this honorable court, to be directed to the said Martin R. P. Mathis as and in his capacity of sheriff, &c., as aforesaid, to restrain the said Mathis, and his successors in office, from listing said lands for taxes thereon, by sale or otherwise, until the matters and things in this bill contained are heard and determined by your honor, but also the Commonwealth's most gracious writ of subpœna to be directed, &c.; and he will ever pray, &c.

JAMES H. WILSON,
By SUTTON & ROBINSON,
*Solicitors.*

STATE OF ARKANSAS,
*County of Chicot.*

I, James H. Wilson, the complainant in the foregoing bill, do solemnly swear that the facts and statements contained in the above and foregoing bill of complaint are true in substance and fact, to the best of my knowledge, information, and belief, so help me God.

JAMES H. WILSON.

Sworn to and subscribed before me this 6th day of March, A. D. 1858.

S. N. CAUGHEY,
*Clerk of the Chicot Circuit Court of Arkansas.*
By S. L. DORSEY, *D. C.*

Know all men by these presents, that I am held and firmly bound unto Martin R. P. Mathis as sheriff of Chicot county, Arkansas, in the penal sum of one hundred and fifty dollars. Witness my hand and seal this 6th day of March, A. D 1858.

The condition of this obligation is such, that if I pay all costs that may accrue in the foregoing suit about to be commenced by James H. Wilson against said Mathis in the circuit court of said county, on the chancery side thereof, then this obligation shall be void, otherwise to be and remain in full force and effect.

JAMES F. ROBINSON. [SEAL.]

*Notice.*

To Martin R. P. Mathis, as sheriff and ex-officio assessor and collector of the taxes in and for the county of Chicot, and State of Arkansas:

You will please take notice that on Tuesday, the 23d day of March, A. D. 1858, and between the hours of ten o'clock a. m. and 4 o'clock p. m. of said day, at the office of the clerk of the circuit court at Monticello, in the county of Drew, and State of Arkansas, I shall apply to *the* Theodorick F. Sorrells, judge of the Chicot circuit court in chancery, for an order of injunction to enjoin and restrain you from selling any of the lands which you have advertised for sale for levee taxes in the name of James H. Wilson or James Wilson, until the matters and things contained in a bill which I will then present to our judge can be fully heard and determined, at which time and place you can attend if you see fit.

JAMES H. WILSON,
By SUTTON & ROBINSON, *Sol's.*

*Order for Injunction.*

JAMES H. WILSON
vs.
MARTIN R. P. MATHIS, as She'ff, &c. } Bill for Injunction.

Upon the reading of the annexed and foregoing bill, exhibits,

and affidavits, it is hereby ordered by Honorable Theodorick F. Sorrells, judge of the Chicot circuit court of Arkansas, exercising chancery jurisdiction, that the clerk of said court issue a writ of subpœna, with an injunction enjoining and restraining the said Martin R. P. Mathis, as sheriff of said county, defendant in said cause, from collecting said tax, or assessing said lands for taxes, according the tenor and effect of the prayer of said bill, and that said defendant be notified, &c., &c. I also approve the security, James F. Robinson.

Given under my hand, as such judge, in vacation, this 23d day of March, 1858.

THEODORICK F. SORRELLS, *Judge.*

I hereby acknowledge that the within notice has been duly served upon me, as sheriff and assessor of taxes in and for Chicot county, Arkansas.

M. R. P. MATHIS,
*As Sheriff and Assessor and Collector of Taxes in and for Chicot County, Ark.*

Endorsed on back of bill: Filed and writs *and* issued this 27 day of March, A. D. 1858.

Attest: S. N. CAUGHEY, *Cl'k,*
By S. L. DORSEY, *D. C.*

*Injunction Bond.*

Know all men by these presents, that we, James H. Wilson, as principal, and James H. Robinson, as his security, are held and firmly bound unto Martin R. P. Mathis, as and in his capacity of sheriff and collector of the taxes of Chicot county, Arkansas, and his successors in office, in the sum of sixteen hundred dollars, to the payment of which we hereby bind ourselves, our heirs, executors and administrators, jointly, severally and firmly, by these presents. Witness our hands and seals this 23d day of March, A. D. 1858.

The condition of this obligation is such, that whereas the said Wilson has made application to the Honorable Theodorick F. Sorrells, judge of the Chicot circuit court in chancery, for an injunction to enjoin and restrain the said Martin R. P. Mathis, sheriff and ex-officio ass'or and collector of said county, and all others, from selling the land, or any part of the land mentioned in the bill of injunction, &c.: Now if we, the said Wilson and said Robinson, shall pay all such damages and costs as shall be sustained by reason of suing out and executing said injunction, in case said Wilson shall fail in the prosecution of the same, then this obligation to be void, otherwise to be and remain *and* full force and virtue. Erasures and interlineations made before execution.

JAMES H. WILSON, [SEAL.]
JAMES F. ROBINSON. [SEAL.]

I approve the above and foregoing bond this 23d day of March, 1858.

CHANCELLOR.

Endorsed on back of bond: Filed M'ch 27th, 1858.
Attest: S. N. CAUGHEY, *Clerk.*

The subpœna that issued in this cause, and the return of the coroner thereon, is in the words and figures following, to wit:

*Subpœna.*

STATE OF ARKANSAS,
*County of Chicot.*

State of Arkansas to the Coroner of Chicot County, greeting:

You are hereby commanded to summon M. R. P. Mathis, if he be found within your bailiwick, to appear before the judge of our circuit court of Chicot county, in chancery sitting, at the court-house in the county aforesaid, on the first day of our next March term, at a court to be holden on the 29th day of March next, then and there to answer a bill in chancery exhibited against him by Jas. H. Wilson, and that you make due return of this writ to said court.

In testimony whereof, I have hereunto set my hand as clerk of said court, and affixed the seal of office, this 27th day of March, A. D. 1858. [SEAL.]

S. N. CAUGHEY, *Clerk.*
By S. L. DORSEY, *D. C.*

*Return.*

Executed the within writ on the within named M. R. P. Mathis, by handing him a true copy of the same, at the county of Chicot, Arkansas, this 27th day of March, 1858.

his
SAM. ⋈ PARKER,
mark.
*Coroner of Chicot County, Ark.*

The writ of injunction that issued in this cause is in the words and figures following, to wit:

*Writ of Injunction.*

STATE OF ARKANSAS,
*County of Chicot.*

The State of Arkansas to Martin R. P. Mathis, as *an* in his capacity of sheriff and collector of *sheriff and collector of* taxes in and for the county of Chicot, and his successors in office:

Know ye, that whereas James H. Wilson has lately exhibited to

Theodorick F. Sorrells, judge of the 2d judicial circuit of the State of Arkansas, his bill of complaint against the above named R. P. Mathis, sheriff as aforesaid, setting forth in substance that he is the legal owner of the following described tracts or parcels of land, lying and being in the county and State aforesaid, as follows: Section five, the N. ½ of the N. ½ section four, E. ½ and E ½ of W. ½ of section eight, W. ½ of section nine, section seventeen, E. ½ of section twenty, section twenty one, W. ½ of section twenty-eight, E. ½ of section twenty-nine, E. ½ of W. ½ and N. ½ of S. E. q'r of section thirteen, in township sixteen south, of range three west; also the W. ½ of section six, W. ½ of section seven, section eighteen, section 19, the northeast quarter and the east half of the northwest q'r of section thirty, in township nineteen south, of range three west; also the E. ½ of sec. one, E. ½ of sec. 12, section 13, E. ½ of sec. 14, E. ½ of sec. 23, section 24, N. ½ of sec. 25, N. ½ of sec. 26, and the N. E. q'r sec. 27, in township 19 south, of range four west:

You are hereby enjoined and restrained from listing any of said lands for taxation, or collecting taxes thereon, until ten years from the date of their entries.

In testimony whereof, I, Samuel N. Caughey, clerk of the circuit court in and for the county of Chicot, State aforesaid, have [SEAL.] hereunto set my hand and affixed the seal of said court, at office, this 27th day of March, A. D. 1858.

SAMUEL N. CAUGHEY, *Clerk*,
By S. L. DORSEY, *D. C.*

1*st Decree.*

And now at this day, to wit, on the 29th day of March, A. D. 1858, it being the first day of the March term of said circuit court, there was an order (or decree) made in this cause in the words and figures following, to wit:

JAMES H. WILSON, Comp't,
vs.
MARTIN R. P. MATHIS, as Sheriff, &c., Def't.

The complainant having heretofore, on the 23d day of March, A. D. 1858, presented his bill for an injunction to restrain the sheriff aforesaid from selling certain lands therein named for non-payment of levee taxes thereon, and the court having, on inspection and consideration thereof, made the order as therein and thereby prayed for, and the writ having issued, under the certificate and seal of said court, with a full description of said lands, it is on their motion ordered that this cause stand on the docket of this court and that said sheriff is hereby ordered to withhold said lands from sale, and not to assess the same for taxes until the further order of this court.

And now at this day, to wit, on the first day of April, 1858, and on the 4th day of the March term, amongst others, the following proceedings were had, to wit:

JAMES H. WILSON, Compl't,
vs.
M. R. P. MATHIS, as Sheriff, &c., Def't.

Now, on this day come said parties, by their solicitors, and this cause is ordered to be continued until the next term of this court, with leave for said defendant to plead, answer, or demur to complainants' bill of complaint at the said term of this court next ensuing.

*Final Decree.*

And now at this day, to wit, at the October term, and on the 4th day of the term, and seventh day of said month, the following proceedings were had, to wit:

JAMES H. WILSON, Comp't,
vs.
MARTIN R. P. MATHIS, as Sheriff of Chicot county, Def't.

This day come the complainant and the defendant, by solicitors, and by agreement and consent the answer of the defendant in the cause of Edmund McGee, No. 26, and the exhibits thereto, are to be taken as an answer in this cause, and replication thereto in short, on the record by consent; and by consent this cause came on for final hearing on bill, said answer, exhibits, and the agreement of facts filed in said cause No. 26; and exhibits *was* read in this , and made applicable hereto, and was argued by counsel.

And whereupon it is ordered, adjudged, and decreed by the court that the injunction granted in this cause be dissolved, and the bill dismissed for want of equity, and that defendant recover from the complainant all his costs in this behalf expended.

From which decree the said complainant prayed an appeal to the Supreme Court, and the affidavit required by law being waived, such appeal is granted, and the same by consent is to operate as a supersedeas without security.

STATE OF ARKANSAS,
*County of Chicot, sct.*

I, Benjamin F. Stephenson, clerk of the circuit court in and for the county of Chicot, and State aforesaid, do hereby certify that the foregoing twenty-two (22) pages contain a full, true, and complete transcript of the records and proceedings in the suit of James H. Wilson, complainant, vs. Martin R. P. Mathis, sheriff of Chicot county, Ark., defendant on the chancery thereof, as the same appears from the records and files of my office.

In testimony whereof I have hereunto set my hand as such clerk, and affixed the seal of said court, at office in Lake Village, this the 15th day of December, A. D. 1858.

[SEAL.]

B. F. STEPHENSON, *Clerk.*

And afterwards, to wit, at a supreme court of said State, begun and held on the first Monday in January, A. D. 1859, were the following proceedings, on the 6th day of January of said term, to wit:

*Agreement of Counsel.*

At this day come said appellant and appellee, by their solicitors, and on motion file their written agreement that the answer and agreed state of facts contained in the transcript in the case of Edmund McGehee be taken and considered by the court as portions of the transcript in this case.

Which said agreement is as follows:

Whereas Edmund McGehee, James H. Wilson, John J. Jackson & Co., Charles McDermott, Charles C. McDermott, James S. Montgomery, and William E. Bowling, filed their several bills of complaint against Martin R. P. Mathis, sheriff of Chicot county, restraining the collection of levee taxes on certain lands by them owned in said county, and said Mathis appeared and answered the bill filed by said McGehee, and an agreement of counsel was drawn up and signed and filed in said cause stating the facts relative to the matters and things arising in said suit, and by agreement of counsel, entered of record in the Chicot circuit court, said answer of Mathis and the agreement as to the facts, filed in the case of McGehee vs. Mathis, were to be taken and stand as the answer of Mathis and the facts in the other cases; and said causes were heard on such answers and agreement of facts, and the bills severally dismissed and injunctions dissolved; and said complainants appealed to this court, and said causes are now on the docket of this court, numbered from 263, 264, 278, 279, 280, 281, and 284, inclusive; but the transcripts in the said cases, except in the one of McGehee vs. Mathis, do not contain the answer of said Mathis and said agreement of facts: Now we, as counsel for said parties, do hereby agree and consent that said answer and agreed state of facts in No. 264 may be taken and considered by the court as portions of the transcripts in the other of said causes, viz: 263, 278, 279, 280, 281, and 284, and hereby waive the necessity of having the same formally incorporated in said transcripts.

GARLAND & RANDOLPH,
For WILSON, MCGEHEE, and JOHN J. JACKSON & CO.
And WM. M. HARRISON and GARLAND & RANDOLPH,
For MCDERMOTT, BOWLING, and MONTGOMERY.
S. H. HEMPSTEAD,
*Solicitor for Martin R. P. Mathis.*

And afterwards, to wit, on the 10th day of January of said term, were the following proceedings, to wit:

At this day comes said appellant, by his solicitor, and on motion it is ordered that his assignment of errors be filed; and thereupon the same is filed.

Said assignment of errors is as follows:

*Ass't of Errors.*

Comes said Wilson, (appellant,) and says that in the record and proceedings, as well as in the rendering of the decree in said cause below, there is manifest error in this:

1st. The court erred in dismissing the bill of complaint in said cause.

2d. The court erred in dissolving the injunction granted in said cause.

3d. The decree was in favor of appellee against appellant, when it should have been in favor of appellant against appellee wherefore, and for other errors, appellant prays the same may be reversed.

GARLAND & RANDOLPH,
*For Appellant.*

And afterwards, to wit, on the 12th day of November, A. D. 1859, at a term of said court begun on the first Monday in October, 1859, to which this cause was continued by operation of law, were the following proceedings:

*Joinder in Error.*

At this day comes said appellee, by his solicitor, and on motion it is ordered that his joinder in errors be filed; and thereupon the same is filed.

And at the same time comes said appellant, by his solicitor, this cause is submitted on briefs, and by the court taken under advisement.

Which said joinder is in the following words:

And the said appellee, by his solicitor, comes into this honorable court and says that there is no error in the record and proceedings aforesaid, or in rendering the decree aforesaid; and he prays that the court here may proceed to examine as well the record and proceedings aforesaid as the matters above assigned for error; and that the decree aforesaid, in form aforesaid given, may in all things be affirmed, with damages and costs.

*Final Decree.*

And afterwards, to wit, on the said 4th day of February, A. D. 1860, were the following proceedings:

This cause came on to be heard upon the transcript of the record of the circuit court of Chicot county in chancery, and was argued in this court by the solicitors of the parties, on consideration whereof it is the opinion of the court that there is no error in the

proceedings and decree of said circuit court in chancery in this cause:

It is therefore ordered and decreed that the decree of said circuit court in chancery in this cause be, and the same is hereby, in all things affirmed, with costs.

It is further ordered and decreed that said appellee recover of said appellant all his costs in this court in this cause expended, and have execution thereof.

And afterwards, to wit, on the 10th day of February, A. D. 1860, came said appellant, by his solicitor, and presented a writ of error issued from the circuit court of the United States for the eastern district of Arkansas, duly allowed by the chief justice of this court, and therewith filed an appeal bond, in the following words:

*Bond in Error.*

Know all men by these presents that we, Augustus H. Garland as principal, and Gordon N. Peay as security, are held and firmly bound unto the said Martin R. P. Mathis in the sum of one hundred dollars, to be paid to the said Mathis, and for the payment whereof well and truly to be made, we bind ourselves, and our and each of our heirs, executors and administrators, jointly and severally, firmly by these presents. Signed and sealed by us respectively, and dated this 7th day of February, 1860. Conditioned that whereas the above named Wilson has prosecuted a writ of error to the Supreme Court of the United States to reverse the judgment rendered by the supreme court of the State of Arkansas, in the suit there pending on appeal in chancery from the decree of the circuit court of the county of Chicot, in that State, in which suit the said Wilson was appellant: Now, therefore, the condition of this obligation is such, that if the above named Wilson shall prosecute his said writ of error to effect, and answer all costs if he shall fail to make good his plea, then this obligation shall become void; else to remain in full force and virtue.

A. H. GARLAND. [SEAL.]
GORDON N. PEAY. [SEAL.]

STATE OF ARKANSAS.

Having fixed the amount of the foregoing bond at the sum of one hundred dollars, and the sureties therein being personally well known to me, and being by me considered sufficient, I do hereby approve the said bond as sufficient, the said writ of error being lodged in the office of the clerk of the supreme court of the State of Arkansas, on this 10th day of February, A. D. 1860.

E. H. ENGLISH,
*Chief Justice of the Supreme Court of Arkansas.*

In testimony that the foregoing 24 pages contain a full, true, and complete transcript of the record of proceedings of the said supreme court in said cause, except the briefs of counsel and the opinion of the court—

I, Luke E. Barber, clerk of said supreme court, hereto set my hand and affix the seal of said court at my office, [SEAL.] in the city of Little Rock, this 28th day of February, A. D. 1860.

L. E. BARBER, *Clerk*.

UNITED STATES OF AMERICA, *ss*.

The President of the United States of America to the Judges of the Supreme Court of the State of Arkansas, greeting:

Because in the record and proceedings, as also in the rendition of a decree in a certain suit upon an appeal in chancery from the decree of the circuit court of the county of Chicot, in the State of Arkansas, which is in the said supreme court of the State of Arkansas, before you, between James H. Wilson, appellant, and Martin R. P. Mathis, as sheriff, &c., appellee, a manifest error hath happened, to the great damage of the said James H. Wilson, as by his complaint it appears, and it being fit that the error, if any there hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, you are hereby commanded, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington on the first Monday of December next, in the said Supreme Court to be then and there held, that the decree and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error, what of right and according to the laws and custom of the United States should be done.

Witness the Honorable Roger B. Taney, Chief Justice of the Supreme Court of the United States, this 7th day of February, in the year of our Lord one thousand eight hundred and sixty, and of the independence of the United States the eighty-fourth year.

Attest: A. H. RUTHERFORD,
*Clerk of the Circuit Court of the United States for the Eastern District of Ark's.*

Within writ of error is allowed.

E. H. ENGLISH,
*Ch. J. Sup. Ct. Ark.*

Feb. 10th, 1860.

STATE OF ARKANSAS,
*In the Supreme Court, ss.*

I, Luke E. Barber, clerk of the supreme court of the State of Arkansas, hereby certify, that in obedience to the mandate of the within writ of error, and the allowance thereof, I have made out a full, true, and complete transcript of the record and proceedings of the case therein stated, except as in the certificate thereof is accepted, which said transcript is hereto attached.

In testimony whereof, I hereto set my hand as clerk of said supreme court, and affix the seal of said court at [SEAL.] my office, in the city of Little Rock, this 28th day of February, A. D. 1860.

L. E. BARBER, *Clerk.*

UNITED STATES OF AMERICA, *ss.*

To Martin R. P. Mathis, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at Washington on the first Monday in December next, pursuant to a writ of error filed in the clerk's office of the supreme court of Arkansas, wherein James H. Wilson is plaintiff, and you, as sheriff and ex-officio assessor and collector of Chicot county, in the State of Arkansas, is defendant in error, to show cause, if any there be, why the judgment in said writ of error mentioned should not be corrected, and speedy justice should not be done to the parties in that behalf.

Witness the Honorable E. H. English, chief justice of the supreme court of Arkansas, this February 10th, 1860.

E. H. ENGLISH,
*Chief Justice Supreme Court of Arkansas.*

I acknowledge service of the foregoing citation, this 10th of February, 1860, at Little Rock, Ark's.

S. H. HEMPSTEAD,
*Sol. for Mathis.*

Filed 30 June, 1860.